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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,006	12/12/2000	Patrick L. Homer	0788.0005	3385

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EXAMINER

NGUYEN, PHUONGCHI T

ART UNIT	PAPER NUMBER
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2833

DATE MAILED: 05/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/735,006

Applicant(s)

HORNER, PATRICK L.

Examiner

Phuongchi T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 3/25/2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 10-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☒ Interview Summary (PTO-413) Paper No(s). 10.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The advisory Action of April 22, 2002 is hereby withdrawn. The following is an action on the merits.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP374482 in view of Fleshman (US4886471), Bushek (US6039685), and DeMello (US5997320).

In regards to claim 1, JP374482 discloses a dummy plug (A) for use with an associated wiring harness (B), the wiring harness (B) having a connector body (C), two connector cavities (D1 and D2), a flange (E) for securing the dummy plug (A) in place, the flange (E) having a top surface (S1) and a bottom surface (S2), a latch beam (F), two latch arms, a first length (L1), a spacer (G), and a perimeter seal (H), the perimeter seal (H) having two latch arm openings for receiving the latch arms, the dummy plug (A) comprising a head (12a); multiple ribs (12), the multiple ribs (12) having a first width (W1); a stem (10), the stem (10) having a second width (W2), the second width (W2) being less than the first width (W1); a second end (11a), the second end (11a) having a third width (W3), the third width (W3) being less <sup>than the</sup> ~~than the~~ first width (W1) and greater than the second width (W2), the second end (11a) having a base (I), the base (I) being held in place by the associated bottom surface (S2); and a second length (L2), the second length (L2) being substantially the same as the associated first length (L1), such that the tip (11a)

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is substantially flush with the associated latch arm (K) (see Attachment 1). JP374482 discloses generally all that is claimed except for the 18-durometer silicon and a female end. However, in regards to 18 durometer, Fleshman teaches the plug connector body having about 50-70 durometer (Column 8, line 47); and in regards to a plug connector made of silicon, Bushek teaches the plug connector being made of silicon (Column 7, lines 3-4); in regards to the female end, DeMello teaches the dummy connector body (72) have a female end (78) for receiving a male pin (see figure 6). It would have been obvious to construct the dummy plug of JP374482 by having the number durometers on the dummy plug as taught by Fleshman for the purpose of the user needs (see Column 4, lines 22-24); by having a silicon as taught Bushek to perform the sealing function of the dummy plug; and by modifying the second end of JP374482 to be a female end as taught by DeMello for covering a male pin when the male pin is not in use.

Claims 8 and 9 are rejected for the same reason of claim 1.

4. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP374482 in view of DeMello (US5997320).

In regards to claim 2, JP374482 discloses a dummy plug (A) for use with an associated wiring harness having a first length (L1), a latch beam (F), and a latch arm (K), the dummy plug (A) comprising a first end; an second end; and a second length (L2), the second length (L2) being substantially the same as the associated first length (L1) (see Attachment 1). JP374482 lacks a female end. in regards to the female end, DeMello teaches the dummy connector body (72) have a female end (78) for receiving the male pin (see figure 6). It would have been obvious to modify the second end of JP374482 to be a female end as taught by DeMello for covering a male pin when the male pin is not in use.

In regards to claim 3, JP374482 discloses the dummy plug (A) wherein the dummy plug (A) further comprises a head (12a); a stem (10); and a tip (11a) (see Attachment 1).

In regards to claim 4, JP374482 discloses the dummy plug (A) wherein the stem (10) has a second width (W2), the tip (11a) has a third width (W3), the third width (W3) being greater than the second width (W2) (see Attachment 1).

In regards to claim 5, JP374482 discloses the dummy plug (A) wherein the first end (N1) has a first width (W1), the first width (W1) being greater than the third width (W3) (see Attachment 1).

In regards to claim 6, JP374482 discloses the dummy plug (A) wherein the associated wiring harness has a flange (E), the flange (E) having a top surface (S1) and a bottom surface (S2), the tip (11a) of the dummy plug (A) further comprising a base (I), the base (I) being held in place by the associated bottom surface (S2) (see Attachment 1).

In regards to claim 7, JP374482 discloses the dummy plug (A) wherein the dummy plug (A) has multiple ribs (12) (see Attachment 1).

#### *Response to Arguments*

5. In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgement on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971). In this case, the dummy plug of JP374482 was constructed by having

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the number durometers on the dummy plug as taught by Fleshman for the purpose of the user needs; by having a silicon as taught Bushek to perform the sealing function of the dummy plug; and by modifying the second end of JP374482 to be a female end as taught by DeMello for covering a male pin when the male pin is not in use.

6. In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re.Nomiya, 184 USPQ 607 (CCPA 1975) . However,.there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971), references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek, 163 USPQ 545 (CCPA) 1969. In this case, the second end of JP374482 was modified by changing to be a female end as taught by DeMello for covering a male pin when the male pin is not in use.

7. In response to Applicant 's Argument on page 3, the second paragraph, lines 2-3, the statement that " Claim 1 clearly recites that the durometer is 18, whereas the Fleshman reference does not recite less than a 50 durometer." is not deem persuasive; because Applicant does not explain the critical reason why the 18 durometer is more important than 50 durometer.

#### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREEMONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **PhuongChi Nguyen** whose telephone number is (703) 305-0729. The examiner can normally be reach on Monday through Thursday from 8:AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Paula Austin Bradley**, can be reached on (703) 308 - 2319. The fax phone number for the organization where this application or proceeding is assigned is (703) 308 - 7722.

PCN

May 01, 2002

**THO D. TA**  
**PRIMARY EXAMINER**

